

State of California  
AIR RESOURCES BOARD

**PROPOSED REGULATION SETTING ADDITIONAL REQUIREMENTS FOR  
ADVANCE PAYMENT OF CERTAIN FUNDS**

Resolution 19-23

**October 24, 2019**

Agenda Item No.: 19-9-2

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, section 39603.1 of the Health and Safety Code authorizes CARB to provide advance payments to grantees of a grant program or project if CARB determines certain specified conditions are met;

WHEREAS, section 39603.1(b) of the Health and Safety Code requires CARB in consultation with the California Department of Finance (DOF), to adopt a regulation implementing section 39603.1 to ensure the moneys are used properly;

WHEREAS, as required by section 39603.1(b) of the Health and Safety Code, CARB staff consulted with DOF in developing the proposed regulation;

WHEREAS, staff has proposed the regulation to establish the advance payment requirements and procedures, as set forth in Appendix A to the Initial Statement of Reasons released to the public on September 3, 2019;

WHEREAS, CARB staff conducted a public workshop on May 20, 2019, and released concepts and draft regulatory language for public review;

WHEREAS, CARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; California Code of Regulations, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60006);

WHEREAS, staff has determined that the proposed regulation is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) because the record evidence shows with certainty that the regulation will not

result in any significant adverse environmental impacts since the regulation seeks to further clarify and define the administrative process for advancing monies for CARB's grant programs and projects, as described in Chapter VII of the Staff Report;

WHEREAS, a public hearing and other administrative proceedings have been held according to the provisions of Chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code; and

WHEREAS, the Board finds that:

The proposed regulation meets the statutory requirement to adopt a regulation implementing section 39603.1 of the Health and Safety Code to ensure the advance payment moneys are used properly;

The procedures described in the proposed regulation for requesting advance payments satisfy the statutory requirements set forth in 39603.1(a)(1)-(a)(5);

The proposed regulation was developed in an open public process, in consultation with DOF and affected parties, through a public workshop and other outreach efforts, and these efforts are expected to continue;

No reasonable alternatives to the regulation considered to date, or that have otherwise been identified and brought to the attention of CARB, would be more effective at carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected entities than the proposed regulation;

The proposed regulation is consistent with CARB's environmental justice policies and are targeted to alleviate the disproportionate pollution burden in disadvantaged communities; and

The proposed regulation is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) because the record evidence shows with certainty that the regulation will not result in any significant adverse environmental impacts since the regulation seeks to further clarify and define the administrative process for advancing monies for CARB's grant programs and projects, as described in Chapter VI of the Staff Report.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves for adoption title 17, California Code of Regulations, sections 91040, 91041, 91042, 91043, and 91044, as set forth in Attachment A.

BE IT FURTHER RESOLVED that if there is a possibility that any modifications to the regulation made available for one or more 15 day public comment periods may affect the conclusion of the environmental analysis, the Executive Officer shall prepare and circulate

any additional environmental analysis to the extent required by CARB's regulations pursuant to California Code of Regulations, title 17, sections 60000-60005, and prepare written responses to any comments received raising significant environmental issues as necessary, to present to the Board for approval along with the final regulation.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to determine if additional conforming modifications to the regulation are appropriate. If no additional modifications are appropriate, the Executive Officer shall take final action to adopt the regulation, as set forth in Attachment A. If the Executive Officer determines that additional conforming modifications are appropriate, the modified regulatory language shall be made available for public comment, with any additional supporting documents and information. The Executive Officer shall consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days. The Executive Officer may present the regulation to the Board for further consideration if warranted, and if not, the Executive Officer shall take final action to adopt the regulation after addressing all appropriate conforming modifications.

I hereby certify that the above is a true and correct copy of Resolution 19-23 as adopted by the California Air Resources Board.

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Patricia Carlos, Clerks' Office

Resolution 19-23

**October 24, 2019**

**Identification of Attachment to the Board Resolution**

**Attachment A\*:** Proposed Additional Requirement for Advance Payment of Certain Funds Regulation, title 17, California Code of Regulations, sections 91040, 91041, 91042, 91043, and 91044, as set forth in Appendix A to the Initial Statement of Reasons, released September 3, 2019.

**\*Attachment A is NOT attached to the proposed resolution; it is simply described on this page.**